IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Crl.Rev.Pet.No. 1102 of 1999(C)

CRA.155/1995 of ADDL.SESSIONS COURT, KOTTAYAM
CC.519/1989 of JUDL. MAGISTRATE OF FIRST CLASS - I, KOTTAYAM
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

THOMAS ALIAS THOMACHAN,
S/O. ABRAHAM, EDATHANAMKUZHIYIL VEEDU,
KUNGANDOOR KARA,
AYARKUNNAM, KOTTAYAM.

BY ADV. SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27 /07 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO. 1102 OF 1999

DATED THIS THE 27th July 2007

ORDER

The revision petitioner is the accused in C.C.No. 519/89 in the file of the Judicial Magistrate of the First Class, Kottayam who stands convicted for the offence under Section 379 I.P.C. and sentenced to undergo rigorous imprisonment for three years.

2. The prosecution case is that on 19-4-1989 at about 5.45 p.m. while PW2, a lady was proceeding towards the bus stand through Kurian Uthooppu road the accused came from behind and snatched the gold chain from her neck and ran away. On hearing the distress call of PW2, PW1, who was driving a private bus, stopped the vehicle and the passersby and the conductor and others chased the accused who was apprehended by PW5, the traffic constable on duty and the gold chain was recovered from the accused at the spot. The evidence adduced in the matter consisted of the testimony of PWs. 1 to 7 and Exts.P1 to P5. The prosecution evidence that support the

charge consisted of the testimony of PWs.2,4 and 5 as well as that of PW7, the goldsmith. PWs.1 and 3 were cited as occurrence witness but they turned hostile. PW. 2, the de facto complainant has testified as to the incident. PW5, the traffic constable who apprehended the accused and recovered the gold chain has deposed as to the same. PW4 the witness to the recovery mahazar and PW7, the goldsmith have testified as to the fact of recovery and that MO.1 is a gold chain . I find that the evidence of Pws.2 and 5, i.e. the de facto complainant and the police constable who apprehended the accused stands not discredited. No contradictions in their previous statement have been brought out. The defence version raised when questioned under Section 313 is that it was a Tamilian, who snatched away the gold chain and that he threw back the same, when the people chased him and that the accused was also running after the above thief and by mistake people caught hold of him. I find that the above version is not even suggested in the cross examination. In the circumstances, I find no deviation form the concurrent findings of the courts below is called for. The

prosecution has proved beyond reasonable doubt the guilt of the accused. Hence, the conviction is confirmed.

The revision petitioner has pleaded for leniency pointing out that since the date of the incident, about 18 years have elapsed and that there was no antecedents to the accused and that he was rather than young when the incident took place. In the circumstances and considering the long delay, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months. He shall appear before the J.F.C.M.Court on 31-8-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO. 1102 OF 1999
ORDER

27-7-2007